Montana Legal Services Association

Provide, protect and enhance access to justice.

MLSA

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BUSINESS & LABOR
EXHIBIT NO. 12
DATE 2-13-15
BILL NO. SB 281

MLSA MORTGAGE AND FORECLOSURE CASE STATISTICS

The Montana Legal Services Association (MLSA) is a nonprofit organization whose mission is to protect and enhance the civil legal rights of, and promote systemic change for, Montanans living in poverty. MLSA's Foreclosure Assistance Program (FAP) is part of the Montana Attorney General's "Keep My Montana Home" program, which also includes the Office of Consumer Protection and various housing counseling organizations across the state. MLSA FAP advocates began handling cases in June of 2012, and continue to provide legal advice and representation to homeowners facing mortgage servicing and foreclosure issues.

<u>Statistics</u>

The following statistics regarding MLSA's mortgage and foreclosure cases were derived from data in MLSA's case management system for cases opened from June 2012 to December 2014. (This data does not include cases opened in 2015.)

- **286**—MLSA cases from June 2012-December 2014, of which 255 are closed and 31 are open as of the making of this handout.
- **19%**—percent of open cases involving households with veterans.
- **35%**—percent of open cases involving clients age 60 or older as of date of intake.
- **29%**—percent of open cases involving clients with disabilities.
- **94%**—percent open mortgage/foreclosure cases involving "Big 5 Servicers" (48%), "Other Nationwide Servicers" (39%), or USDA (7%).
- **83%**—percent closed mortgage/foreclosure cases involving "Big 5 Servicers" (47%), "Other Nationwide Servicers" (33%), or USDA (3%).
- **82%**—percent of closed direct representation cases involving "Big 5 Servicers" (27%), "Other Nationwide Servicers" (27%), or USDA (27%).

"Big 5 Servicers" are Ally (formerly GMAC), Bank of America, Chase, Citi and Wells Fargo. "Other Nationwide Servicers" include entities to which the servicing rights for several "Big 5 Servicer" mortgage loans have been transferred, such as Nationstar and Caliber, and other nationwide servicers that are not "Big 5 Servicers," such as U.S. Bank. Other categories used for purposes of generating this information were "Montana Banks," "Out of State Banks," "Montana Board of Housing," "Private," and "Unknown."

<u>Advice to Skip Payments</u>

In 2014, **16%** of MLSA mortgage and foreclosure clients reported that a servicer told them to skip payments to become delinquent or increase their delinquency, in order to qualify for assistance such as loan modification programs. MLSA did not track this data prior to 2014.

Other Alleged Misconduct

Except for claims that a servicer advised a homeowner to skip payments as mentioned above, MLSA does not statistically track the various kinds of alleged servicer misconduct reported by homeowners. It would be difficult to develop report-generating data fields for all types of misconduct alleged, in part because the facts are often case-specific and difficult to classify. Some clients do not wish to explore claims of servicer misconduct, even when the evidence of misconduct is strong, because the client's goal is to reach quick resolution, avoid foreclosure, obtain a loan modification or other assistance, or simply to learn more about his or her situation and options. That said, some common complaints about servicers fielded by the MLSA FAP program include:

- Requiring multiple resubmissions of documents for loan modification applications;
- Telling the homeowner to disregard a written communication, and then proceeding in a manner adverse to the homeowner because the written communication was disregarded;
- Failing to provide information requested by the homeowner, including the basis for a denial of a loan modification application;
- "Dual tracking" (more common at the beginning of FAP before changes in relevant regulations), meaning that a servicer would conduct foreclosure proceedings at the same time that a loan modification application was pending;
- Providing conflicting or confusing information about the mortgage loan account balance, the amount due, or how much should be paid;
- Providing conflicting or confusing information about the terms of a trial period plan (TPP) or modification;
- Rejecting payments that are properly made under loan terms, or are made pursuant to instructions from the servicer;
- Misapplying payments;
- Assessing unreasonable fees for lateness, multiple inspections, and other items; and
- When servicing is transferred from one servicer to another, requiring a homeowner to start over with the loan modification application process or losing documents.